

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Adoption of Numeric )  
Conservation Goals and )  
Consideration of National Energy )  
Policy Act Standards (Section )  
111) )  
GAINESVILLE REGIONAL UTILITIES - ) DOCKET NO. 930553-EG  
CITY OF GAINESVILLE ) )  
JACKSONVILLE ELECTRIC AUTHORITY ) DOCKET NO. 930554-EG  
KISSIMMEE UTILITY AUTHORITY ) DOCKET NO. 930555-EG  
CITY OF LAKE LAND ) DOCKET NO. 930556-EG  
CITY OF OCALA ) DOCKET NO. 930557-EG  
ORLANDO UTILITIES COMMISSION ) DOCKET NO. 930558-EG  
CITY OF TALLAHASSEE ) DOCKET NO. 930559-EG  
CLAY ELECTRIC COOPERATIVE, INC. ) DOCKET NO. 930560-EG  
LEE COUNTY ELECTRIC COOPERATIVE, ) DOCKET NO. 930561-EG  
INC. ) )  
SUMTER ELECTRIC COOPERATIVE, ) DOCKET NO. 930562-EG  
INC. ) )  
TALQUIN ELECTRIC COOPERATIVE, ) DOCKET NO. 930563-EG  
INC. ) )  
WITHLACOOCHEE RIVER ELECTRIC ) DOCKET NO. 930564-EG  
COOPERATIVE, INC. ) )  
FLORIDA KEYS ELECTRIC ) DOCKET NO. 930922-EG  
COOPERATIVE ASSOCIATION, INC. ) )  
CITY OF VERO BEACH ) DOCKET NO. 940828-EG  
 ) )  
 ) ORDER NO. PSC-95-0411-FOF-EG  
 ) ISSUED: March 24, 1995

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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
SUSAN F. CLARK  
JULIA L. JOHNSON  
DIANE K. KIESLING

ORDER GRANTING MOTIONS TO ELIMINATE CONSIDERATION OF  
NATIONAL ENERGY POLICY ACT STANDARDS AS ISSUES

These dockets, along with Docket Nos. 930548-EG (Florida Power and Light Company), 930549-EG (Florida Power Corporation), 930550-EG (Gulf Power Company), 930551-EG (Tampa Electric Company) and 930552-EG (Florida Public Utilities Company) were opened to establish the appropriate numeric demand side management goals for

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the electric utilities subject to the Florida Energy Efficiency and Conservation Act (FEECA), 366.80-366.85 and 403.519, Florida Statutes. Consideration of implementation of the two standards set forth in the Public Utilities Regulatory Policy Act of 1978 (PURPA) as amended by Subtitle B, Section 111, of the Energy Policy Act of 1992 (EPACT) was also identified as an issue in each of these dockets. These standards are commonly referred to as the "Integrated Resource Planning" and the "Income Neutrality" standards.

On December 5, 1994, the City of Tallahassee filed a Motion to Eliminate Consideration of National Energy Policy Act Standards as Issue in Proceeding. The Motion alleges that the City of Tallahassee, as "a municipal electric utility which is not subject to the Commission's ratemaking authority, is not subject to determinations by the Commission concerning its Integrated Resource Planning and Investments in Conservation and Demand Management." No response or objection to the Motion was filed.

The statutory definitions relevant to this analysis are part of the Public Utility Regulatory Policies Act of 1978 ("PURPA") and are found at 16 U.S.C.S. §2602.

a. The term "**State regulated electric utility**" is defined as "any electric utility with respect to which a State regulatory authority has ratemaking authority." (Emphasis supplied.)

b. The term "**ratemaking authority**" is defined as "authority to fix, modify, approve, or disapprove rates."

c. The statute also defines a "**nonregulated electric utility**" as "any electric utility other than a State regulated electric utility."

d. Finally, the statute defines a "**State regulatory authority**," in pertinent part, as "any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility...." See 16 U.S.C.S. §1602(9), (11), (17) and (18).

Section 366.04, Florida Statutes delineates the jurisdiction of the Commission with respect to municipal and cooperative electric utilities. It includes the authority to prescribe

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uniform systems and classifications of accounts, to prescribe rate structure, to require electric power conservation and reliability within a coordinated grid, to approve territorial agreements and resolve territorial disputes, and jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout the state. The Commission does not have the authority to set rates for municipal and cooperative electric utilities.

Thus, municipal electric utilities and rural electric cooperatives do not fall within the PURPA definition of a "State regulatory electric utility."

Determinations concerning the appropriateness of implementing Integrated Resource Planning and Investments in Conservation and Demand Management are left to one of two regulatory authorities. With respect to electric utilities subject to the Commission's ratemaking authority, it is the Commission which makes such determinations. However, with respect to nonregulated electric utilities, that are not subject to the Commission's ratemaking authority, those determinations are to be made by the governing body authorized to establish the rates of the electric utility.

Tallahassee, as a municipal electric utility which is not subject to the Commission's ratemaking authority, is not subject to determinations by the Commission concerning its Integrated Resource Planning and Investments in Conservation and Demand Management. The law clearly leaves those determinations to the Tallahassee City Commission.

Therefore, we find that the City of Tallahassee's motion should be granted. Consideration of the Integrated Resource Planning and Investments in Conservation and Demand Management standards set forth in the National Energy Policy Act of 1992 is be eliminated as an issue in Docket No. 930559-EG.

On December 5, 1994, a Motion by the Gainesville Regional Utilities - City of Gainesville, the Jacksonville Electric Authority, the Kissimmee Utility Authority, the City of Lakeland, the City of Ocala, and the City of Vero Beach to eliminate consideration of the 111 standards as an issue in the above-referenced dockets was filed. No response or objection to the Motion was filed. All these utilities are similar to the City of Tallahassee in that they are not subject to the "ratemaking

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authority" of the Florida Public Service Commission. Thus, they are not subject to determinations by the Commission concerning their Integrated Resource Planning and Investments in Conservation and Demand Management. Therefore, we find that the motion should be granted.

On November 29, 1994, a Motion to eliminate National Energy Policy Act Standards (Section 111) as an issue by Clay Electric Cooperative, Inc., Sumter Electric Cooperative, Inc., Lee Electric Cooperative, Inc., Talquin Electric Cooperative, Inc., Withlacoochee River Electric Cooperative, Inc., Florida Keys Electric Cooperative Association, Inc. No response or objection to the Motion was filed. All these utilities are similar to the City of Tallahassee in that they are not subject to the "ratemaking authority" of the Florida Public Service Commission. Thus, they are not subject to determinations by the Commission concerning their Integrated Resource Planning and Investments in Conservation and Demand Management. Therefore, we find that the motion should be granted.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the City of Tallahassee's Motion to Eliminate Consideration of National Energy Policy Act Standards as Issue in Proceeding is granted. It is further

ORDERED that Motion by the Gainesville Regional Utilities - City of Gainesville, the Jacksonville Electric Authority, the Kissimmee Utility Authority, the City of Lakeland, the City of Ocala, and the City of Vero Beach to eliminate consideration of the 111 standards as an issue in the above-referenced dockets is granted. It is further

ORDERED that Motion to eliminate National Energy Policy Act Standards (Section 111) as an issue by Clay Electric Cooperative, Inc., Sumter Electric Cooperative, Inc., Lee Electric Cooperative, Inc., Talquin Electric Cooperative, Inc., Withlacoochee River Electric Cooperative, Inc., Florida Keys Electric Cooperative Association, Inc. is granted. It is further

ORDERED that these dockets shall remain open pending the establishment of numeric conversation goals for these utilities.

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By ORDER of the Florida Public Service Commission, this 24th  
day of March, 1995.



BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of

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Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.